IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

CRL.R.C.No.1440 OF 2003

K.Sarojini .. Petitioner/Complainant

-vs-

1. The State by the
Sub Inspector of Police
B5-Singanallur Police Station
Coimbatore .. Respondent

Amended as per the order
of this Court in Crl.M.P.
No.13005 of 2003 dated 30.12.2002

2. S.Ethiraj
3. S.Visalakshi ..
Respondents/Accused 1 and 2

This Revision is filed under Section 397 and 401 of Crl Pc against the Judgment in S.C.No.388 of 2001 on the file of the Court of the 2nd Additional Sessions Judge, Coimbatore dated 26.3.2002.

For petitioner : : Mr.K.Kalyanasundaram

For respondents : : Mr.V.R.Balasubramaniam
Addl.Public Prosecutor-R1.
Mr.R.Ravichandran-R2 and R3.

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O R D E R

This revision has been preferred against the Judgment in S.C.No.388 of 2001 on the file of the Second Additional Sessions Judge, Coimbatore.

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2.A1 and A2 have been charged under Sections 498A, and 302 IPC and under Section 4 of the Dowry Prohibition Act.

3. Before the trial Court, P.Ws 1 to 14 were examined and Exs P1 to P17 were exhibited and M.Os 1 to 8 were marked. On the side of the accused Exs D1 to D4 were marked.

4. After going through the evidence both oral and documentary, the learned Sessions Judge has held that the charges against A1 under Section 498 A and 302 IPC and under Section 4 of the Dowry Prohibition Act and the charges against A2 under Section 498A and 304 ((b) IPC and under Section 4 of the Dowry Prohibition Act have not been proved and accordingly the learned Sessions Judge has acquitted both A1 and A2 under Section 235 (1) Cr.P.C. The State has not preferred any appeal over the findings of the learned sessions Judge. P.W.1 the mother of the deceased has preferrred this revision.

5. In this revision against acquittal, the main point to be gone into is , is there any manifest error of law or procedure incurred in the judgment of the trial Court or whether the findings of the trial Court is perverse in nature to warrant any interference in its Judgement by this Court?

6.Heard Mr.K.Kalyasundaram, learned counsel appearing for the revision petitioner, Mr.V.R.Balasubramaniam, learned Additional Public Prosecutor appearing for State-R1 and Mr.R.Ravichandran, learned counsel appearing for R2 and R3 and considered their rival submissiions.

7. The learned Additional Public Prosecutor appearing for the State would focus the attention of this Court to Exs P1 and P5 and contended that there is no irregularity or infirmity in the findings of the learned Sessions Judge and it is not perverse in nature on the availiability of both oral and documentary evidence.

7a. Ex P1 is the complaint given by the deceased on 16.10.2000 before the Inspector of Police, while she was taking treatment at the Government Hospital after the occurrence. A reading of Ex P1 complaint will go to show that the victim was a Science Graduate and the marriage between her and A1 took place some three years before the date of occurrence. In her complaint, she would state that on 14.10.2000 evening, she along with her husband and child went to Saibaba Temple and after staying at her sister's house, returned to her house on 15.10.2000 at about 10.00p.m., While her husband was sleeping in the bed room , she went to the kitchen for the purpose of preparing hot water, she opened the gas and ignited with a match stick without putting out

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the match stick, she dropped the same by the side of her, inadvertently, failing to notice that the five litre kerosene cane was spilled over on the floor which resulted in the immediate engulf of fire which caught in her nylex nighty, she raised distress call which made her husband to come to her rescue with a pot of water. In the mean time, she had sustained burn injuries all over her body and in the process of putting out the fire, her husband also sustained burn injuries on his hand and with the help of her brother Sankar and Rajagopal, her husband took her to the Government Hospital in an ambulance and admitted her for treatment.

7b. Ex P5 is the dying declaration recorded by the Judicial Magistrate on 16.10.2000 at about 2.20 a.m. Even in Ex P5, the deceased has not made any allegation of dowry or cruelty against the accused. She has stated that only due to the accident, the fire engulf all over her body. The dying declaration is a mere replica of what she had narrated in Ex P1. Only basing his reliance on Ex P1 and Ex P5, the learned Sessions Judge has come to a correct conclusion that the charge levelled against A1 under Section 498 A and 302 IPC and under Section 4 of the Dowry Prohibition Act and offence under Section 498 A, 304(B) IPC and under Section 4 of the Dowry Prohibition Act against A2 has not been proved by the prosecution and accordingly acquitted both the accused under Section 235(1) of Cr.P.C.

8.Under such circumstances, I do not find any reason to interfere with the reasoning given by the learned trial Judge for having come to a conclusion that the charge levelled against the accused are not proved beyond any reasonable doubt for an acquittal.

9. In fine, the revision is dismissed confirming the Judgment in S.C.No.388 of 2001 on the file of the Court of Second Additional Sessions Judge, Coimbatore dated 26.03.2002.

sg

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Second Additional Sessions Judge, Coimbatore
2. The Inspector of Police, B5,Singanallur Police Station, Coimbatore.
3. The Public Prosecutor, High Court, Madras

+ one cc to Mr. K. Kalyanasundaram, Advocate sr no. 24056
+ one cc to Mr. R. Ravichandran, Advocate sr no. 24552

SSV(CO)
NM(23.04.07)

Crl.R.C.No.1440/2003

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